

## REMARKS

In response to the Notice of a Non-Compliant Amendment, Applicant has reinstated claims 18-30 of the previous amendment and has made additional amendments to independent claim 18 indicating that the ribs join at a gasket extending along the underside of the lower rim and fused to the lower rim.

Applicant has also corrected the Status Identifier for claim 29.

### **Claim Rejections 35 U.S.C. §102**

Claims 18-20 and 30 were rejected under 35 U.S.C. §102(e) as being anticipated by Blomdahl.

Blomdahl does not have "ribs join[ed] at a gasket formed of the same material as the ribs and extending along the underside of the lower rim and fused to the lower rim" as now required per claim 18. Instead Blomdahl places a gasket per Fig. 3 isolated from similar materials on the upper edge of the rim against the lower surface of the top of the lid. The structure of the present invention which allows co-molded ribs and gasket is neither fairly taught nor suggested by Blomdahl.

Blomdahl also does not teach: "a plurality of vertically extending ribs...being resilient relative to the cap shell" as claimed in claim 18. The ribs 34 shown in Fig. 1 of Blomdahl are part of the skirt 34 and clearly constructed of a rigid underlying material of the skirt in contrast to the rubber material making up the second piece 40 and third piece 50 of Blomdahl. See, generally, column 4, lines 3-12 and lines 26-33. The hemi circular regions 40 of Blomdahl are not "raised from the outer surface of the cap shell" as required by the claims.

### **Claim Rejections 35 U.S.C. §103**

Claims 18, 19 and 21 and 30 were rejected as being unpatentable over Gabriele in view of Baar.

In light of this amendment, this rejection is respectfully traversed because neither Gabriele nor Baar, alone nor in combination, teach " ribs join[ed] at a gasket formed of the same material as the ribs and extending along the underside of the lower rim and fused to the lower rim" as now claimed.

It is further believed that neither of these references alone or in combination teach "vertically extending ribs...raised from the outer surface of the cap shell" or ribs "fused to the cap

shell." Fusing requires an attachment by a melting together of the materials as occurs a co-injection situation. As noted at MPEP §2113, second paragraph, terms such as fusing limit structure and thus must be given patentable weight.

Gabriele clearly teaches a single horizontal rib that is attached elastically to the cap after the fact, and Baar teaches molding a cap and then filling it with a suitable friction material flush with the cap. There is no teaching suggestion for modification of these references to produce the present invention and the references teach away from the present invention by describing manufacturing techniques that could not practically produce the present invention.

Claims 18, 19 and 21 and 30 were rejected as being unpatentable over Thompson in view of Baar.

In light of the present amendment, this rejection is respectfully traversed because neither Thompson nor Baar teach " ribs join[ed] at a gasket formed of the same material as the ribs and extending along the underside of the lower rim and fused to the lower rim" as now claimed.

Thompson which teaches a rubber coating for a metal bottle cap, further fails to teach "ribs fused to the cap shell," or "ribs... raised from the outer surface of the cap shell." Neither of these deficiencies are remedied by Baar, which also fails to teach "ribs fused to the cap shell," or "ribs... raised from the outer surface of the cap shell."

Each of these references teaches away from the present invention by suggesting limited manufacturing processes and materials that a person of ordinary skill in the art would know are unsuitable for the design of the present invention.

Claims 18, 19, 22-25 and 28-30 have been rejected as unpatentable over Walding in view of Barr.

In light of this amendment, this rejection is respectfully traversed because neither Walding nor Baar, alone nor in combination, teach " ribs join[ed] at a gasket formed of the same material as the ribs and extending along the underside of the lower rim and fused to the lower rim" as now claimed. Walding and Baar appear to teach away from any gasket.

In addition, Walding and Baar appear not to teach or suggest "ribs fused to the cap shell and raised from the outer surface of the cap shell" as required of the present claims.

It is respectfully submitted that the cited references are not enabling as to how to fuse raised ribs of elastic material to sides of a cap and an integral gasket to the bottom of a cap in

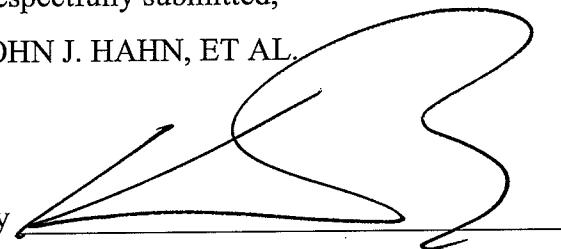
Serial No. 10/621,830  
Reply to Office Action of September 25, 2006  
Page 6 of 6

what a person of ordinary skill in the art would believe to be a commercially practical manner, and thus the cited references alone or in combination cannot fairly be said to teach or suggest the present invention.

In light of these amendments and remarks, it is believed claims 18-30 are now in condition for allowance, and allowance is respectfully requested.

Respectfully submitted,  
JOHN J. HAHN, ET AL.

By

A handwritten signature in black ink, appearing to read "Keith M. Baxter". It is written in a cursive style with a large, sweeping loop on the right side.

Keith M. Baxter  
Reg. No. 31,233  
Attorney for Applicant  
Boyle Fredrickson Newholm  
Stein & Gratz, S.C.  
250 E. Wisconsin Avenue, #1030  
Milwaukee WI 53202  
(414) 225-9755